

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE**  
**ZONING TEXT AMENDMENT REPORT (#FZTA-20-02)**  
**(May 12, 2021)**

A report to the Flathead County Planning Board and Board of Commissioners regarding various amendments to the Flathead County Zoning Regulations (FCZR). The request proposes to add “marina” as a conditional use in the B-3 Community Business zone (Section 3.20.03) and to add “marinas” in the definition of “Recreational Area, Commercial” (Section 8.17.020).

The Flathead County Planning Board will conduct a public hearing on the proposed text amendment on May 12, 2021 in the South Campus Building 2<sup>nd</sup> Floor Conference Room, 40 11<sup>th</sup> Street West, Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will also hold a public hearing on the proposed amendment(s) at a date and time yet to be determined. Documents pertaining to the text amendment(s) are available for public inspection in the Flathead County Planning and Zoning Office, South Campus Building, 40 11<sup>th</sup> Street West, in Kalispell. Prior to the Commissioner’s public hearing, documents pertaining to the text amendment(s) will also be available for public inspection in the Flathead County Clerk and Records Office, 800 South Main Street, in Kalispell.

**I. APPLICATION REVIEW UPDATES**

**A. Planning Board**

The Flathead County Planning Board will hold a public hearing on the proposed amendment on May 12, 2021 and make a recommendation to the Flathead County Commissioners. This space is reserved for a summary of the Flathead County Planning Board’s discussion and recommendation.

**B. Commission**

The Flathead County Commissioners will hold a public hearing on the proposed amendment on a date to be determined. This space is reserved for a summary of the Commission’s discussion and decision.

**II. GENERAL INFORMATION**

**A. Application Personnel**

**i. Applicant**

Flathead County Planning Board

**B. Proposed for Amendment**

The proposal is a request to amend Section 3.20.030 to add “marina” as a conditional use in the B-3 zone and to add the word “marina” to the definition of Recreational Area, Commercial

**C. Criteria Used for Evaluation of Proposed Amendment:**

Amendments to the text of the Flathead County Zoning Regulations are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

**D. Compliance With Public Notice Requirements:**

In conformance with Section 2.08 of the Flathead County Zoning Regulations regarding amendments to the text of that document, legal notice of the Planning Board public hearing on this application was published in the April 25, 2021 edition of *The Daily Interlake*. Public notice of the Board of County Commissioners' public hearing regarding the zoning text amendment will be published in the legal section of *The Daily Interlake* once a week for two weeks prior to the public hearing and be physically posted within the County according to statutory requirements found in Section 76-2-205 M.C.A. All methods of public notice will include information on the general character of the proposed amendment to the text of the *Flathead County Zoning Regulations*, the time and place of the public hearing and that the text of the amendment is available for public inspection at the Flathead County Planning and Zoning Office and the Commissioners' Office.

### **III. COMMENTS RECEIVED**

#### **A. Public Comments**

As of the writing of the staff report, no public comments have been received.

#### **B. Agency Comments**

The nature of the proposed amendments did not appear to warrant requesting additional agency comments.

### **IV. EVALUATION OF PROPOSED AMENDMENT**

#### **A. General character of and Reason for Amendment**

As mentioned above, this is a request to add the word "marina" in two different places in the regulations. This extremely minor text amendment is the result of a recent text amendment that revised the PUD section of the regulations. On August 11, 2020, the Board of Commissioners adopted a resolution that removed the Marina PUD option. Staff recommended this removal primarily because the Flathead County Lake and Lakeshore Protection Regulations have specific marina standards that were not referenced in the Marina PUD section of the regulations.

In January, 2021, it was brought to staff's attention that a text amendment adopted in 2000 added the Marina PUD language to the regulations specifically to address marina development potential on certain commercial zoned property with frontage in Bigfork Bay which is not regulated by the County's Lakeshore Regulations. This apparent oversight and lack of institutional knowledge regarding this 2000 text amendment resulted in uncertainty whether a marina could be developed on B-3 zoned property. In order to try to eliminate potentially questionable interpretations of the zoning regulations regarding the development of marinas, this proposed text amendment requests to add marina as a conditional use in the B-3 zone and to add the word "marina" to the definition of Recreational Area, Commercial.

#### **B. Proposed Amendment**

3.20.030 Conditional Uses (B-3).

1. Bowling alley.
2. Commercial caretaker's facility in a detached accessory building in conjunction with a business.\*
3. Commercial recreation area.
4. Convention hall facility.

5. Dwelling, duplex and multi-family.
6. Dwelling, resort. (See Chapter V – Performance Standards and Chapter VIII - Definitions)\*
7. Dwellings in mixed-use building.
8. Electrical distribution station.
9. Health club.
10. Hotel, motel.
11. Lumber yard.
12. **Marina. (See Chapter 8—Definitions)**
13. Quasi-public building, non-profit.
13. Recycling drop-off station.
14. Tavern.
15. Taxidermist.
16. Temporary building, structure, or use.\*
17. Water storage facility.

8.17.020 Recreational Area, Commercial – An area operated for profit and devoted to facilities and equipment for recreational purposes, including swimming pools, tennis courts, playgrounds, **marinas**, and other similar uses whether the use of such area is limited to private membership or open to the public upon payment of a fee or service charge.

**C. Review of Proposed Amendment (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)**

**i. Whether the proposed text amendment is made in accordance with the Growth Policy/Neighborhood Plan.**

As mentioned above, this is a very minor amendment to the regulations. Staff investigated ways in which this very minor change could be accomplished administratively; however, it was determined that this request should go through the formal text amendment process. That being said, there does not appear to be a need to go through a lengthy Growth Policy analysis for this request. The initial adoption of the Zoning Regulations along with all subsequent text amendments has proven that the regulations, in general, have been developed in accordance with the Growth Policy. This minor text amendment should further support the seven elements of the public’s vision of Flathead County which include protecting views, promoting a diverse economy, managing transportation, protecting access to and interaction with parks and recreation, managing and protecting the natural and human environment, and preserving the rights of private property owners. It should be noted that the minor text amendment also appears to comply with many other goals and policies outlined in the Growth Policy.

**Finding #1:** The proposed text amendment appears to be in accordance with the Flathead County Growth Policy because it further supports the seven elements of the public’s vision of Flathead County and it complies with many other goals and policies of the Growth Policy.

**ii. Whether the proposed text amendment is designed to:**

1. Secure safety from fire and other dangers;

Because the request proposes to add marina as a conditional use in the B-3 zone, safety from fire and other dangers will be addressed during the conditional use permit review process and approval will be conditioned to address these issues.

**Finding #2:** The proposed text amendment is designed to help secure safety from fire and other dangers because a potential marina in the B-3 zone will be required to obtain a conditional use permit and safety from fire and other dangers will be addressed during the review and approval of that permit.

**2. Promote public health, public safety, and general welfare;**

By their very nature, zoning regulations are designed to promote public health, safety, and general welfare. The proposed text amendment which will require marinas in the B-3 zone to obtain a conditional use permit will address public health, safety and welfare issues during the review and approval of that permit.

**Finding #3:** The proposed text amendments will promote public health, public safety, and general welfare because marinas in the B-3 zone will require a conditional use permit. Health, safety and welfare issues are addressed during the review and approval process.

**3. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.**

The proposed amendment should have minimal effect on provisions for transportation, water, sewerage, schools, park, and other public requirements. The conditional use permit review and approval process will address, at the least, transportation, water, sewage, and other public requirements.

**Finding #4:** The proposed text amendments should have a minimal effect on transportation, water, sewage and other public requirements because the conditional use permit review and approval process will address these issues and appropriate conditions will be attached to any approval of a marina.

**iii. In evaluating the proposed text amendment(s), consideration shall be given to:**

**1. The reasonable provision of adequate light and air;**

There should be a minimal impact to the provision of adequate light and air with the adoption of this request. Marinas are an outdoor, open use that typically do not require the construction of large structures. In addition, any marina development on any lake in Flathead County will also need to follow the marina standards outlined in the Flathead County Lake and Lakeshore Protection Regulations.

**Finding #5:** The proposed text amendment will have a minimal effect on the provision of adequate light and air because marinas are an outdoor use that typically do not require the construction large structures.

**2. The effect on motorized and non-motorized transportation systems;**

As already mentioned, this is a request to add marina as a conditional use in the B-3 zone and to add the word marina to the definition of a commercial recreation facility. All vehicular transportation issues will be addressed during the conditional use permit review and approval process and appropriate conditions regarding motorized transportation systems will be attached to any approval. The proposed amendment should have no effect on non-motorized transportation systems.

**Finding #6:** The proposed text amendment should have no adverse impact on motorized transportation systems because any motorized transportation system issues will be review and appropriately conditional in the course of the conditional use permit process. The proposed text amendment should have no impact on non-motorized transportation systems.

**3. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);**

While there is B-3 zoning in close proximity to municipalities, there does not appear to be any B-3 zoning appropriate for the development of a marina in close proximity to any municipality. The closest B-3 zoned property capable of marina development is in Bigfork which is more than twelve mile from the nearest city.

**Finding #7:** The proposed text amendment appears to be compatible with the urban growth in the vicinity and in the vicinity of the surrounding municipalities because it appears the closest B-3 zoned property capable of marina development is in Bigfork which is more than 12 miles from the nearest municipality.

**4. The character of the district(s) and its peculiar suitability for particular uses;**

The B-3 zoning use district is primarily located along major transportation corridors throughout the County. However, there is property zoned B-3 in the Bigfork area with some of this property in Bigfork Bay. The ability to obtain a conditional use permit for a marina on this B-3 zoned property appears to be quite suitable for this area. A marina development in Bigfork Bay could capitalize on the numerous amenities Bigfork has to offer. Moreover, because the request is to require a conditional use permit for a marina in the B-3 zone, any impacts to the surrounding area can be mitigated with conditions of approval.

**Finding #8:** The character of the proposed text amendment appears to be particularly suitable for the potential conditional use of a marina in the B-3 zone because there is property zoned B-3 on property in Bigfork Bay that appears to be a likely spot to develop a marina with the impacts of that development mitigated by conditions of approval through the conditional use permit process.

**5. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.**

As mentioned earlier, a 2020 text amendment to the PUD section of the regulations eliminated the apparent ability for B-3 zoned property to develop a marina. This oversight and lack of institutional history is being correct by this minor text amendment which would allow a most appropriate use of land zoned B-3 that is adjacent to a water body that could accommodate a marina development. By requiring conditional use approval with associated conditions of approval, marina development in B-3 zoned property will be required to mitigate potential adverse impacts from marina development in the area of the development. It should be noted that this request should have no effect on the value of buildings. This request appears to only encourage the potential for the most appropriate use of land.

**Finding #9:** The proposed text amendment appears to encourage the most appropriate use of the land because there is B-3 zoned property located in areas capable of marina development. The conditional use process and conditions of approval required of

future marina development in the B-3 zone should mitigate any potential adverse impacts marina development might have on the surrounding area.

**iv. Whether the proposed text amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.**

The closest municipalities to the area most likely to experience marina development is more than twelve miles away. This minor text amendment should have no impact on the zoning ordinance of any city within Flathead County.

**Finding #10:** The proposed text amendment should have no impact on the zoning ordinances of nearby municipalities because the closest city to B-3 zoned property capable of marina development is more than twelve miles away.

## **V. SUMMARY OF FINDINGS**

**Finding #1:** The proposed text amendment appears to be in accordance with the Flathead County Growth Policy because it further supports the seven elements of the public's vision of Flathead County and it complies with many other goals and policies of the Growth Policy.

**Finding #2:** The proposed text amendment is designed to help secure safety from fire and other dangers because a potential marina in the B-3 zone will be required to obtain a conditional use permit and safety from fire and other dangers will be addressed during the review and approval of that permit.

**Finding #3:** The proposed text amendments will promote public health, public safety, and general welfare because marinas in the B-3 zone will require a conditional use permit. Health, safety and welfare issues are addressed during the review and approval process.

**Finding #4:** The proposed text amendments should have a minimal effect on transportation, water, sewage and other public requirements because the conditional use permit review and approval process will address these issues and appropriate conditions will be attached to any approval of a marina.

**Finding #5:** The proposed text amendment will have a minimal effect on the provision of adequate light and air because marinas are an outdoor use that typically do not require the construction large structures.

**Finding #6:** The proposed text amendment should have no adverse impact on motorized transportation systems because any motorized transportation system issues will be reviewed and appropriately conditional in the course of the conditional use permit process. The proposed text amendment should have no impact on non-motorized transportation systems.

**Finding #7:** The proposed text amendment appears to be compatible with the urban growth in the vicinity and in the vicinity of the surrounding municipalities because it appears the closest B-3 zoned property capable of marina development is in Bigfork which is more than 12 miles from the nearest municipality.

**Finding #8:** The character of the proposed text amendment appears to be particularly suitable for the potential conditional use of a marina in the B-3 zone because there is property zoned B-3 on property in Bigfork Bay that appears to be a likely spot to develop

a marina with the impacts of that development mitigated by conditions of approval through the conditional use permit process

**Finding #9:** The proposed text amendment appears to encourage the most appropriate use of the land because there is B-3 zoned property located in areas capable of marina development. The conditional use process and conditions of approval required of future marina development in the B-3 zone should mitigate any potential adverse impacts marina development might have on the surrounding area.

**Finding #10:** The proposed text amendment should have no impact on the zoning ordinances of nearby municipalities because the closest city to B-3 zoned property capable of marina development is more than twelve miles away.

## **VI. RECOMMENDATION**

Per Section 2.08.020(4) of the Flathead County Zoning Regulations, a review and evaluation by the staff of the Planning Board, comparing the proposed zoning text amendment to the criteria for evaluation of amendment requests found in Section 2.08.040, has found the proposal to generally comply with the review criteria based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

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